

REMARKS

Claims 1 to 4, 29, 30, 38, 39, and 56 to 65 are currently under consideration. Claim 5 to 18, 31 to 37, 40 to 50 have been withdrawn. Claims 19 to 28 and 51 to 57 were cancelled to expedite prosecution.

As recited in the pending claims, the subject invention relates to system which allows a customer to obtain professional editing of their digital photographs in a simple and low cost manner. Applicants have commercialized the concepts described in the subject application. The Examiner is invited to view Applicants' consumer oriented website at www.image-edit.com to better appreciate some of the concepts discussed herein.

In the claimed system, the customer transmits a digital image to be edited along with instructions for modification of the image to the provider. The provider receives these instructions and sends the image and instructions to a selected image editor. The editor makes the modifications requested by the customer. The modified image is then made available to the customer. In the preferred embodiment, the transmission of the image to the provider and then on to the editor is carried out over the internet.

In the Office Action, the Examiner rejected the pending claims as being obvious based on the patent to Walker (5,862,223) in view of the patent Gallery (5,991,443). Applicants respectfully traverse this rejection.

As correctly noted by the Examiner, the patent to Walker relates to a system for providing customers with remote access to certain experts to offer their services. Some examples given in Walker include a customer who had prepared a book report and seeks an expert to edit of the report. In another example, a teacher seeking help grading papers or tests might upload the papers or tests for grading by a third party expert.

As noted by the Examiner, Walker fails to disclose as an example, a customer that is interested in obtaining editing of a digital image. Walker also fails to disclose an interface where instructions for modifying the image can be uploaded along with the image. Such instructions might include a request for a change in background or elimination of glare which are specific to particular parts of a image. Further, Walker fails to disclose that the expert service to be performed is digital image editing.

The Examiner attempts to overcome these deficiencies by first suggesting that it would be obvious to "hook up" a customer with "any" kind of expert, video or otherwise. Why would

this be obvious? The only reason it might be obvious is based on applicants' disclosure, a conclusion based on hindsight which is clearly improper. There is nothing in Walker that would remotely suggest the concept of a digital image editing system where a user can upload a digital image, instructions for editing the image, the altering of the image by an image editor and providing access to the edited image to the customer.

The Examiner then cites to the Gallery patent. Gallery relates to a graphics image generation apparatus for manipulating video images as part of a video on demand system such as a video game. Gallery relates to a piece of hardware for manipulating video images on the fly. One skilled in the art presented with Walker and Gallery would have absolutely no clue how to combine the teachings of those two references. Why would the expert system in Walker benefit from an added piece of hardware that can modify video images on demand. Of more relevance, what does Gallery have to do with the claimed invention?

In paragraph 7 of the Office Action, the Examiner states as follows: "The limitations of the instant application are met through any resume service in combination with experts who use well-known image editing software and who are also willing to use typed emailed instructions. Both resume matching software and image editing software are old and well known."

There are numerous factual and logical problems with the assertions of the Examiner. Applicants agree that image editing software is known. Applicants are unsure what the Examiner means by "resume matching software." Does the Examiner mean software that matches a resume with a job opening? If the Examiner persists with this unwarranted rejection, applicants request clarification of "resume matching software" and its relevance to the claimed invention.

The first sentence in paragraph 7, the Examiner's proposed combination of a resume service and image editors fails to make a prima facie case of obviousness for a number of reasons. First, there would be no need for a digital image editor to deal with a resume. Second, the combination fails to suggest that the object to be edited is a digital image. Finally, and most importantly, there is no hint or suggestion in the prior art to make the proposed combination! When making an obviousness rejection, the Examiner is required to point to something, whether it be in the references themselves or something well known to one skilled in the art that renders the combination prima facie obvious. Simply saying that the combination is obvious is not enough. Why would it be obvious to modify either Walker or a "resume service," neither of which have

anything to do with editing digital images, to reach applicants' invention as covered in claim 1? The answer is that such a modification is not obvious and therefore this rejection cannot stand.

In view of the above, it is respectfully submitted that the independent claims pending in this application define patentable subject matter and allowance thereof, along with the claims depending therefrom (including the withdrawn claims) is respectfully solicited.


Respectfully submitted,

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